the question as to who can attack the constitutionality. The mortgagee himself may do so in the foreclosure proceedings, for it is his own contract that is affected. *Bronson* v. *Kinzie*, 1 How. (U. S.) 311. And if he buys at the foreclosure sale, paying less than the mortgage debt, he retains sufficient of his character of mortgagee to enable him to raise the constitutional question. *Barnitz* v. *Beverly*, 163 U. S. 118, 16 Sup. Ct. 1042. But a stranger who purchases does so under conditions existing at the time of the sale, and cannot object to a statute as impairing the obligations of a contract to which he was not a party. *Hooker* v. *Burr*, 194 U. S. 415, 24 Sup. Ct. 706, overruling *Howard* v. *Bugbee*, 24 How. (U. S.) 461. And where the mortgagee himself buys, paying as much as the mortgage debt, he stands no better than any other purchaser. *Connecticut Mutual Life Ins. Co.* v. *Cushman*, 108 U. S. 51, 2 Sup. Ct. 236. He may protect himself by raising the question in the foreclosure proceedings. *Bronson* v. *Kinzie*, *supra*. But it seems proper to deny the purchaser the right.

CONSTITUTIONAL LAW — POWERS OF LEGISLATURE — TAXATION: VALIDITY OF STATUTE EFFECTIVE ON PASSAGE OF CONSTITUTIONAL AMENDMENT. — A state constitution provided that all persons should be rendered liable to a license tax except those engaged in mining pursuits. A statute was passed providing for a tax on the business of mining oil, but expressly providing that the statute was not to be effective until an amendment making it constitutional was passed. The amendment was passed without mentioning the statute. *Held*, that the statute is of no effect. *Etchison Drilling Co.* v. *Flournoy*, 59 So. 867 (La.).

The mere fact that a statute is to become effective upon a contingency will not make it invalid. *Home Ins. Co.* v. *Swigert*, 104 Ill. 653; *Locke's Appeal*, 72 Pa. St. 491. The court in the principal case recognizes this rule but limits it to cases where the legislature could have enacted the statute unconditionally at the time of its passage, and reasons that here the legislature had absolutely no power to act on this matter. But state constitutions are usually held to be limitations on the power of the legislature. In this case the prohibition at the time of the passage of the act was that no taxes should be levied on mining. And it is submitted that the courts should not imply into a limitation on a coördinate governing body, the additional restriction that no statute dealing with the taxing of mining should be passed. A statute is only unconstitutional, therefore, if it commands taxes to be levied in violation of the express prohibition. But the condition on the statute in the principal case makes it impossible that taxes should be so levied; for the statute is not effective until the levy is made constitutional. *Pratt* v. *Allen*, 13 Conn. 113; *Galveston, B. & C. N. G. Ry. Co.* v. *Gross*, 47 Tex. 428. But *cf. Northern Pacific Ry. Co.* v. *Washington ex rel. Atkinson*, 222 U. S. 370, 32 Sup. Ct. 160. In substance it is clear that no taxpayer at the moment he is taxed will ever under any contingency be able to object that such taxation is at that time beyond the power of the legislature. It might be argued, however, that such legislation infringes upon the sovereign power of the people to amend the constitution. Assuming that such an infringement is unconstitutional, this does not seem to be an infringement. The fact that a statute may become effective is no more a consideration to hamper the free amending power than the possibility that similar statutes may be passed after the amendment.

CORPORATIONS — STOCKHOLDERS: RIGHTS INCIDENT TO MEMBERSHIP — RIGHT OF MINORITY STOCKHOLDER TO RESTRAIN TRANSFER OF CONTROL OF STOCK FROM ONE COMPETITOR TO ANOTHER. — Minority stockholders of a railroad company were granted a temporary injunction restraining the sale of a majority of the stock from one of its competitors to another under an agreement in violation of the Sherman Anti-Trust Act. *Held*, that the injunction

should be dissolved. *Delavan* v. *New York, New Haven & Hartford R. Co.*, 139 N. Y. Supp. 17 (Sup. Ct., App. Div.).

By the better construction, the Sherman Anti-Trust Act gives no one but the government the right to enjoin its violation. See 26 HARV. L. REV. 179. Stockholders of either the buying or selling corporation could have enjoined the conveyance as an illegal *ultra vires* transaction. *Harding* v. *American Glucose Co.*, 182 Ill. 551, 55 N. E. 577. See 20 HARV. L. REV. 495. But the corporation of the plaintiffs was doing nothing illegal. It is also true that control of a corporation through ownership of its stock cannot be exercised at the corporation's expense. *Wheeler* v. *Abilene National Bank Building Co.*, 159 Fed. 391. See 22 HARV. L. REV. 591. If the resulting injury is directly towards the corporation, the shareholder cannot ordinarily sue. *Niles* v. *New York Central & H. R. R. Co.*, 176 N. Y. 119, 68 N. E. 142. See 22 HARV. L. REV. 594. But where his attempt to obtain from the majority the right to sue in the corporate name would be obviously futile, he may sue on behalf of the corporation in his own name as in the principal case. 4 THOMPSON, CORPORATIONS, 2 ed., § 4552. The sale by the majority stockholders of controlling stock to a competing corporation will be enjoined. *Dunbar* v. *American Tel. & Tel. Co.*, 224 Ill. 9, 79 N. E. 423. But a transfer from a competing corporation to one that is not competing will not be enjoined. *Hunnewell* v. *New York Central & H. R. R. Co.*, 196 Fed. 543. And where, as in the principal case, the transfer is from one competing corporation to another and there is no indication of injury resulting, there seems no basis for an injunction. See 13 COL. L. REV. 154.

CORPORATIONS — ULTRA VIRES CONTRACTS: RIGHTS AND LIABILITIES OF PARTIES — CONSTRUCTIVE NOTICE OF CHARTER. — A corporation issued its shares of stock below par and marked them "fully paid-up." The defendant bought them innocently from a shareholder. The articles of association showed this stock to have been issued below par. The liquidator of the corporation now sues for the balance due on the stock. *Held*, that the plaintiff is estopped, as the defendant did not have constructive notice of the articles of association. *In re Victoria Silicate Brick Co., Ltd.*, [1912] Vict. L. R. 442. See NOTES, p. 540.

CORPORATIONS — ULTRA VIRES CONTRACTS: RIGHT AND LIABILITIES OF PARTIES — PERSONAL LIABILITY OF AGENT OF CORPORATION. — The defendant was the agent of a foreign corporation which had failed to comply with the registry laws of the state. Registration was a condition precedent to the right to do business in the state. The defendant knowing these facts made a contract in behalf of the corporation with the plaintiff, who did not know them. By the law of the state the corporation was not liable on the contract. *Held*, that the defendant is liable. *Raff* v. *Isman*, (Pa., Sup. Ct.). See NOTES, p. 542.

CRIMINAL LAW — STATUTORY OFFENSES — LIABILITY OF AGENT OF PURCHASER IN ILLEGAL LIQUOR SALE. — The defendant acted as a messenger for the buyer in the purchase of liquors, making no profit thereon himself. A statute made the sale of liquor illegal. *Held*, that the defendant is not guilty under the statute. *Simpson* v. *Commonwealth*, 152 S. W. 255 (Ky.); *State* v. *Davis*, Ont. Wkly. R. 412.

A purchaser, though admittedly a party to a sale, is not liable under statutes forbidding the sale of liquor. *Commonwealth* v. *Willard*, 22 Pick. (Mass.) 476; *State* v. *Rand*, 51 N. H. 361. Various reasons are given for such holding. One ground relied on is that the offense is of a comparatively insignificant character. See *Commonwealth* v. *Willard*, *supra*, 478. Another reason advanced is that generally the seller can be convicted only by the evidence of the buyer. See *Harney* v. *State*, 8 Lea (Tenn.) 113, 117. Other decisions, however, rely on stat-